



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

NORTHERN REGIONAL OFFICE  
13901 Crown Court, Woodbridge, Virginia 22193  
(703)583-3800 FAX (703) 583-3821  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director  
(804) 698-4000

Thomas A. Faha  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
AIG Employee Services, Inc.  
FOR  
Parkridge V  
VPDES Permit No. VAG25  
Registration No. VAG250144**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and AIG Employee Services, Inc., regarding the Parkridge V facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "AIG" means AIG Employee Services, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. AIG is a "person" within the meaning of Va. Code § 62.1-44.3.

3. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10.
7. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
  - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. “DMR” means Discharge Monitoring Report.
9. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. “Facility” means AIG’s lease space in the commercial office building known as Parkridge V, located at 10790 Parkridge Boulevard, Fairfax County, Virginia, from which discharges of noncontact cooling water occur.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
14. “Parkridge V” refers to the “Facility,” as defined above.
15. “Permit” means VPDES Permit No. VAG25, the VPDES General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less, which was issued under the State Water Control Law and the Regulation on March 2, 2018 and which expires on March 1, 2023. AIG applied for coverage under General Permit No. VAG25 and was issued registration No. VAG250144, on March 2, 2018.

16. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
17. "Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. AIG is a tenant (since 2016) of the Parkridge V commercial office building. AIG is the owner and operator of a cooling tower system that serves as a backup for AIG in the event that the building's primary system goes down. The Permit allows AIG to discharge noncontact cooling water from the Facility, to an unnamed tributary to Difficult Run, in strict compliance with the terms and conditions of the Permit.
2. Difficult Run is located in the Potomac River Basin. Difficult Run is listed in DEQ's 305(b) report as impaired for aquatic life use (benthic macroinvertebrate bioassessment) and recreational use (bacteria).

3. Part I.A.1.a of the Permit requires AIG to monitor and limit certain effluent characteristics in discharges to freshwater receiving waterbodies.
4. DEQ file review of Permit-required DMR submissions indicate that AIG has reported that it exceeded discharge limitations contained in Part I.A.1 of the Permit at Outfall 001 as follows:
  - a. total recoverable copper for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2017 and the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters of 2018;
  - b. total recoverable zinc for the 3<sup>rd</sup> quarter of 2017;
  - c. total residual chlorine (TRC) for the 3<sup>rd</sup> quarter of 2017; and
  - d. pH for the 3<sup>rd</sup> quarter of 2017 and the 3<sup>rd</sup> quarter of 2018.
5. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
6. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
7. NRO issued a Warning Letter and Notices of Violation for the violations described above in paragraphs C(1) through C(6) as follows:
  - a. WL No. W2017-11-N-1013, issued November 9, 2017;
  - b. NOV No. W2018-02-N-0012, issued February 14, 2018;
  - c. NOV No. W2018-05-N-0002, issued May 9, 2018;
  - d. NOV No. W2018-08-N-0009, issued August 15, 2018; and
  - e. NOV No. W2018-11-N-0011, issued November 14, 2018.
8. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
9. The Department has issued no permits or certificates to AIG other than VPDES Permit Registration No. VAG250144.
10. Difficult Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
11. Based on the results of the file review and correspondence between DEQ and AIG, the Board concludes that AIG has violated condition Part I.A.1 of the Permit, by discharging noncontact cooling water from the Facility while concurrently failing to comply with the conditions of the Permit, as described above in paragraphs C(1) through C(10).
12. AIG believes that the effluent limit exceedances are primarily due to the makeup water used in the Facility’s cooling towers. To remedy the violations, AIG expressed the intent to plumb the cooling tower discharge to a local sanitary sewer and terminate coverage under VPDES General Permit VAG25.

13. In a letter dated June 29, 2018, AIG stated that on May 30, 2018, AIG submitted an application to Fairfax County Department of Public Works & Environmental Services to connect the cooling tower discharge to the county's sanitary sewer. In a letter dated October 16, 2018, AIG stated that completion of sanitary sewer connection had been delayed because of connection feasibility issues brought up by Fairfax County during AIG's application process.
14. In order for AIG to return to compliance, DEQ staff and representatives of AIG have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders AIG, and AIG agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$10,500** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

AIG shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, AIG shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of AIG for good cause shown by AIG, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2018-11-N-0011 dated November 14, 2018, NOV No. W2018-08-N-0009 dated August 15, 2018, NOV No. W2018-05-N-0002 dated May 9, 2018, NOV No. W2018-02-N-0012 dated February 14, 2018, and WL No. 2017-11-N-

1013 dated November 9, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, AIG admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. AIG consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. AIG declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by AIG to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. AIG shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. AIG shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. AIG shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and AIG. Nevertheless, AIG agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after AIG has completed all of the requirements of the Order;
  - b. AIG petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to AIG.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve AIG from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by AIG and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of AIG certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind AIG to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of AIG.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, AIG voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29<sup>th</sup> day of July, 2019.



Thomas A. Faha, Regional Director  
Department of Environmental Quality

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Consent Order

AIG Employee Services, Inc.; VPDES Permit Registration No. VAG250144

Page 9 of 10

AIG Employee Services Inc. voluntarily agrees to the issuance of this Order.

Date: 5/21/2019 By: Michael J. Rogers, Director - GPM/HSE/FLS  
(Person) (Title)  
AIG Employee Services Inc.

~~Commonwealth of Virginia~~

City/County of NY / NY

The foregoing document was signed and acknowledged before me this 21<sup>st</sup> day of MAY, 2019, by MICHAEL J. ROGERS who is DIRECTOR of AIG Employee Services Inc., on behalf of the corporation.

David Rodriguez  
Notary Public

Registration No.

DAVID RODRIGUEZ  
Notary Public, State of New York  
No. 01R06076589  
Qualified in Bronx County  
Commission Expires June 24, 2022

My commission expires: \_\_\_\_\_

Notary seal:

## **APPENDIX A SCHEDULE OF COMPLIANCE**

AIG Employee Services, Inc. shall:

1. Within 30 days of the effective date of this Order, submit a plan and schedule to DEQ for review and comment with the steps AIG intends to take to come into compliance with effluent discharge limits of total recoverable copper, pH, total recoverable zinc, and total residual chlorine. The submitted plan and schedule shall require AIG to eliminate the Facility's discharge or come into compliance with Permit limits within 210 days of the effective date of this Order. AIG shall respond to DEQ's comments on the plan and schedule within 14 days or a later date approved by DEQ. Once notified by DEQ that the plan is acceptable, AIG shall implement said plan and schedule, which will become enforceable pursuant to this Order.
2. Unless otherwise specified in this Order, AIG shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality  
Northern Regional Office  
Attention: Enforcement  
13901 Crown Court  
Woodbridge, VA 22193